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| 7590 06/13/2007 | | | | |
| Michael W. Starkweather 9035 S 1300 E Suite 200 Sandy, UT 84094 | | | | |
| | | | EXAMINER HUSBAND, SARAH E | |
| | | | ART UNIT 1746 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/655,815

Applicant(s)

DURRANT ET AL.

Examiner

Sarah E. Husband

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9,16-19,25-28 and 33-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,16-19,25-28 and 33-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-7 and 9 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments regarding claims 16 and 25 filed 3/27/2007 have been fully considered but they are not persuasive. These claims do not describe an air compressor system as Applicant argues in response to the 102(b) rejection. Applicant also argues that the structure and setup of the present invention are not the same as the current invention and therefore the flow rate and volume would be different. However, this argument is not found persuasive because the apparatus described by Sales anticipates the structure as claimed. “[A]pparatus claims cover what a device is, not what a device does.” *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original). Further, Applicant does not provide evidence showing that the device shown by Sales cannot perform at these cleaning and flow rates.

Applicant's arguments filed 3/27/2007 regarding claims 18 and 28 rejected under 35 USC 103 have been fully considered but they are not persuasive. Applicant's arguments are not persuasive because as stated in the first office action, Applicant admits that the solution is well known. Therefore, because it is such a well-known and successful solution, one of ordinary skill in the art would easily be motivated to use this solution to clean their carpets as well. Additionally, it would also be obvious to accommodate such fluids as most equipment

Art Unit: 1746

would be able to withstand some type of corrosiveness since they are using “chemicals” already.

The rejections of claims 8, 10-15, 20-24, and 29-32 are considered to be moot in view of the cancellation of these claims.

Therefore, the rejection stands as follows.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the air pressure pump must be shown or the feature(s) canceled from the claim(s). The specification describes the air pressure pump as item 34 (page 10). However, item 34 is already used to describe a cleaning solution tank (page 8 and 9). Appropriate clarification is required. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing

Art Unit: 1746

sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 33, 35 and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 33-36 contain the limitation of "an air pressure pump, configured to move the cleaning solution from the storage system, through the delivery system and to the effluent storage system;". However, this limitation is unclear because it seems as though the vacuum pump actually takes the cleaning solution to the effluent storage system and not the air pressure pump. Appropriate clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 1746

Claims 16, 17, 19 and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Sales (US Patent No. 5,469,598).

Sales discloses a cleaning vehicle (Fig. 1, Item 15), engine (Fig. 2, Item 6), cleaning fluid storage (67), delivery system (116, 11), and effluent storage system (125). Sales also discloses a mixing chamber where the chemical line (66) mixes with the water line (47). Sales further shows a heating system (see Fig. 2, Item 46), a cleaning applicator (11), vacuum system (120). Sales also discloses the flow rate is less than 1.5 gallons because it can be turned off. Although Sales does not describe the exact cleaning rate, the claimed structures are the same and therefore would be expected to perform the same.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sales in view of Keller (US Pub. 2002/0162187).

Sales discloses a cleaning vehicle (Fig. 1, Item 15), engine (Fig. 2, Item 6), cleaning fluid storage (67), delivery system (116, 11), and effluent storage system (125). Sales also discloses a mixing chamber where the chemical line (66) mixes with the water line (47). Sales further shows a heating system (see Fig. 2, Item 46), a cleaning applicator (11) and vacuum system (120). Sales does not specifically disclose an air pressure pump in the compressor

Art Unit: 1746

system. However, Keller discloses an air pressure pump used to move cleaning solution (Item 20, paragraph 59, 66, Fig. 23). Keller also describes a flow rate between 0.5 and 2 gpm. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Sales with Keller for the benefit of adding fluids to the cleaning fluid for increased cleaning effectiveness.

Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sales and Keller, as applied to claims 1-6 and 33 above, and further in view of Applicant's specification.

Sales and Keller disclose the apparatus in the above 103(a) rejection. They do not specifically disclose the carbonated cleaning solution. Applicant states in the specification (pg. 9, ll. 10-13) that the acid/base carbonated cleaning solution is a known and patented solution. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Sales and Keller by using the cleaning solution discussed in Applicant's specification as it is a previously known and suitable cleaning solution when cleaning textiles.

Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sales in view of Keller.

Sales discloses the apparatus shown above in the 102 rejection. Sales does not specifically disclose an air pressure pump in the compressor system. However, Keller discloses an air pressure pump used to move cleaning solution (Item 20, paragraph 59, 66, Fig. 23). At the time of the invention, it would have been obvious to one of ordinary skill in

Art Unit: 1746

the art to modify Sales with Keller for the benefit of adding fluids to the cleaning fluid for increased cleaning effectiveness.

Claims 18 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sales in view of Applicant's Specification.

Sales discloses the apparatus shown above in the 102 rejection. Sales does not specifically disclose the carbonated cleaning solution. Applicant states in the specification (pg. 9, ll. 10-13) that the acid/base carbonated cleaning solution is a known and patented solution. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Sales by using the cleaning solution discussed in Applicant's specification as it is a previously known and suitable cleaning solution when cleaning textiles.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sales and Applicant's specification as applied to claims 25-28 above, and further in view of Keller.

Sales and Applicant's specification are described above. They do not specifically disclose an air pressure pump in the compressor system. However, Keller discloses an air pressure pump used to move cleaning solution (Item 20, paragraph 59, 66, Fig. 23). At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Sales and applicant's specification with Keller for the benefit of easily adding fluids to the cleaning fluid for increased cleaning effectiveness.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah E. Husband whose telephone number is (571) 272-8387. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1746

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SEH

MICHAEL KORNAKOV
PRIMARY EXAMINER

M. Kornakov

08/11/07